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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/485,017	04/06/2000	YUICHI NAKAO	65296	1390

23872 7590 03/12/2002

MCGLEW & TUTTLE, PC
SCARBOROUGH STATION
SCARBOROUGH, NY 10510

EXAMINER

DICKENS, CHARLENE

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 03/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/485,017

Applicant(s)

NAKAO et al

Examiner

DICKENS

Group Art Unit

2855

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 12-20-01

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-19 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-19 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa et al. Hasegawa et al. discloses a coriolis mass flow meter 1 comprising: two parallel curved flow tubes (2a,2b) having a base plate 5a fixedly fitted to them at the points serving as first vibration fulcrum, an inlet-side manifold branching from an inlet 3 of a fluid being measured to said two flow tubes, an outlet 4 side manifold for joining fluid flows flowing in said two flow tubes to discharge from a fluid outlet, a drive unit 6 for causing any one of said flow tubes to resonate with the other flow tube in an opposite phase with each other (6A-7D), and a pair of vibration sensors (7,8), disposed at symmetrical positions with respect to the mounting position of said drive unit, for sensing a phase difference proportional to coriolis (Abstract); a meter body holds connecting ports at both ends and the entire flow meter, and said meter body is mechanically connected to said inlet-side and outlet side manifolds only at the inlet side of said inlet side manifold and

at the at the outlet side of said outlet side manifold, respectively, so that the joint parts between said inlet side and outlet side manifolds and said flow tubes that serve as second vibration fulcrums (col. 5, lines 60-64), can be isolated from said meter body and all structures connected thereto; wherein said inlet side manifold is smoothly curved form the inlet thereof (fig. 1), branching into two flow tubes while continuously reducing the total cross-sectional area of flow paths of said two flow tubes(fig. 2); and flow paths of said outlet side manifold are smoothly curved form the joint parts thereof with said flow tubes, joining said flow paths while continuously increasing the total cross sectional area of said flow paths, and leading to a fluid outlet(fig. 3). However, Hasegawa et al. do not disclose two separate base plates serving as first vibration fulcrums. The use of separate base plates versus the integral base plate structure of Hasegawa et al. would have been obvious to one skilled in the art because the constitution of parts are so combined as to constitute a unitary base plate for the purpose of providing a fulcrum. In re Fridolph, 50 CCPA 745, 89 F.2d 509, 135 USPQ 319. It would have been obvious to one skilled in the art to have separate base plate Hasegawa et al. for the purpose of providing a fulcrum.

3. Applicant's arguments filed 12/20/01 have been fully considered but they are not persuasive. Applicants argue

Hasegawa et al. do not disclose or teach an inlet manifold branching from an inlet into flow tubes. The Examiner disagrees with this assertion. Hasegawa et al. clearly disclose and suggest an inlet manifold branching from an inlet into flow tubes. Specifically, in Fig. 2 of Hasegawa et al., one skilled in the art can see the manifold 3 branches out from the inlet of the tube 2a. Applicants go on to argue Hasegawa et al. do not disclose or teach an outlet manifold for joining fluid flows flowing into flow tubes. Again, the Examiner disagrees with this argument. In Fig. 2 of Hasegawa et al., one skilled in the art can see the manifold 4 joining fluid flows flowing into flow tube 2b. After careful review of Hasegawa et al., the Examiner did not find element 30 as referenced by the applicants. Thus, the argument regarding element 30 is not germane. All other arguments have been addressed by the new rejection given above. Accordingly, Hasegawa et al. clearly teach and/or suggest the applicants' claimed invention.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this

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Art Unit: 2855

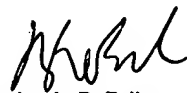
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action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Dickens whose telephone number is (703) 305-7047. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist or the customer service representative whose telephone numbers are (703) 308-0956 or (703) 308-4800 respectively. The fax numbers are (703) 305-3431 and (703) 305-3432.



cd/dickens
March 4, 2002



Benjamin R. Fuller
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